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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3408 OF 2007

Navin Keshav Gohil .. Applicant

V/s

State of Maharashtra .. Respondent

Mr.A.P. Mundargi i/b Mr.Shaunak Mehta for the applicant.

Mr.Rajesh More, A.P.P. for the State.

CORAM : D.G. KARNIK, J.

DATE : 28TH NOVEMBER 2007

P.C. :

1. Heard the learned counsel for the parties.

2. This application under section 438 of the Cr.P.C. is made in connection with the crime registered with D.B. Marg Police Station at C.R. No.139/2007 for an offence punishable under sections 409, 420 read with 34 of the I.P.C.

3. On 7th July 2007, one Pravin Babubhai Navadia

(hereinafter referred to as "the complainant") lodged an F.I.R. with the police alleging that one Dhanjibhai Borda, aged 40 years and his son Pankaj Dhanjibhai Borda, aged 22 years, who were brokers in diamonds trade and known to him for 2-3 years, came to him with a request to deliver on approval basis certain diamonds. The said Dhanjibhai and Pankaj Borda (hereinafter referred to as"Bordas") told the complainant that four persons, who were also traders in diamonds, one of whom is the present applicant, were interested in purchase of diamonds and they wanted to have diamonds shown to them on approval basis. Bordas also gave mobile telephone numbers of the applicant as well as the three other prospective purchasers. After confirming with the said prospective purchasers including the present applicant, the complainant delivered the diamonds to Bordas on approval basis between the first week of March 2007 and 14th July 2007. as the diamonds were not returned nor the price was paid till the agreed dates, the complainant made inquiries with the applicant and other prospective purchasers whereupon they told him that they had not received the diamonds from Bordas. He therefore filed a complaint alleging that Bordas had deceived him in collusion with the applicant and other three prospective purchasers.

4. I have perused the copy of the F.I.R. as also the copy of the affidavit filed in reply filed by Mr.Rajiv Arjun Sawant, Assistant Police Inspector, who is investigating into the crime.

5. Mr.Mundargi for the applicant submitted that the present applicant never received the diamonds. The applicant is cooperating with the police for the investigation. In fact, the applicant went to the police station on 23rd July 2007 and his statement has been recorded. The present applicant has also made a counter-complaint against the brokers Dhanjibhai and Pankaj Borda.

6. It is clear from the F.I.R. that the diamonds were never delivered personally to the present applicant but the diamonds are alleged to have been delivered to Bordas. It is further clear that the applicant is sought to be connected with the crime on the allegation that the complainant had a telephone conversation with the applicant before he delivered the diamonds to Bordas. Mobile telephone number of the applicant has been mentioned in the F.I.R. Learned A.P.P., on the instructions of the Assistant Police Inspector who is present in Court, states that the mobile records have been inspected but they do not show any conversation

between the complainant and the applicant having taken place at the relevant time. Therefore, at this stage, there is no prima facie material on record to connect the applicant with the crime.

7. In the circumstances, in my view, the applicant is entitled to an anticipatory bail. Hence, I pass the following order:-

ORDER

In the event of the arrest of the applicant in connection with the crime bearing C.R. No.139/2007 registered with D.B. Marg Police Station, the applicant shall be released on bail on executing a personal bond of Rs.5,00,000/- with one or two sureties making an aggregate amount of Rs.5,00,000/- subject to the following conditions:

(a) The applicant shall cooperate with the investigation and attend the police station for the purpose of investigation and/or recording further statement as and when called by the police. In addition, the applicant shall also attend the police station once in a fortnight on first and third Saturdays of every month between 4.00 p.m. and 5.00 p,m.

(b) The applicant shall not make any inducement nor

give any threats to any of the prosecution witnesses and shall not in any manner tamper with the investigation.

(D.G. KARNIK, J.)